

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

GARY L. QUIGG,

Plaintiff,

vs.

SHERIFF MIKE LINDER; ANGELA
NIESS, LPN; VICTORIA SCOTT,
LPN; and CHRISTOPHER CARUSO,
PA,

Defendant.

CV-17-35-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations recommending that Quigg's Motion to Amend/Supplement Complaint be denied as to Nurse Scott and Yellowstone County. (Doc. 75). Neither party filed objections. The Court reviews for clear error any portion to which no party specifically objected. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Quigg filed a motion to amend his complaint to add three new defendants to his complaint. Quigg seeks to add Yellowstone County. However, Yellowstone

County is already a defendant because Quigg named Sherriff Linder in his individual and official capacity. (Doc. 25 at 4).

Quigg also seeks to add Nurse Scott. Judge Johnston concluded that the applicable statute of limitations bar Quigg from adding Nurse Scott. In *Wilson v. Garcia*, 471 U.S. 261 (1985), the Supreme Court determined that the state statute of limitations governing personal injury actions for claims filed pursuant to 42 U.S.C. § 1983. In Montana, that period is three years after the action accrues. Mont. Code. Ann. § 27-2-204(1).

The Court agrees that the statute of limitations bar Quigg from adding Nurse Scott. The Court modifies the Findings and Recommendations to reflect that Quigg sought to add Nurse Scott as a defendant on August 5, 2019, and, therefore, any claim accruing prior to August 5, 2016 is barred by the applicable statute of limitations. (Doc. 63). The incidents giving rise to Quigg's claim occurred in January 2016. Quigg is time barred from raising a claim against Nurse Scott for incidents that occurred in January 2016.

The Court finds no clear error in Judge Johnston's Findings and Recommendations.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 75) are **ADOPTED IN PART** and **MODIFIED IN PART** to reflect that Quigg first sought to add Nurse Scott as a defendant on August 5, 2019.

IT IS FURTHER ORDERED that Quigg's Motion to Amend/Supplement Complaint (Doc. 71) is **DENIED** as to Nurse Scott and Yellowstone County.

DATED this 10th day of December, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris
United States District Court Judge